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Skagit County Auditor

**AMENDED DECLARATION  
FOR  
L AVENUE CONDOS, A CONDOMINIUM**

(This replaces and supersedes that Declaration previously recorded un Number  
202312150042 record Skagit County Auditor)

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Grantor: Grace Perez and Victor Perez

Grantee: Unit Owners of L Avenue Condos

Legal Description Abbr.: A portion of the SE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 24 Township 35 Range 1  
E of the W.M., City of Anacortes, Skagit County, Washington

Complete Legal: See exhibit A attached hereto

Assessor's Tax Parcel: 3772-122-020-0008 and 3772-122-020-0107

Amended Survey Map and Plans Recorded Under Skagit County Recording No.

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## INDEX

Article 1 – Interpretation	3
Article 2 – Description of Real Property	10
Article 3 – Description of Units	10
Article 4 – Boundaries	11
Article 5 – Description of Common Elements	12
Article 6 – Description of Limited Common Elements	12
Article 7 – Allocated Interests	12
Article 8 – Owner’s Association	12
Article 9 – Management of Condominium	15
Article 10 – Use; Regulations of Uses; Architectural Uniformity	23
Article 11 – Common Expenses and Assessments	27
Article 12 – Insurance	32
Article 13 – Damage or Destruction; Reconstruction	34
Article 14 – Condemnation	35
Article 15 – Compliance with Declaration	35
Article 16 – Limitation of Liability	36
Article 17 – Mortgagee Protection	37
Article 18 – Easements	40
Article 19 – Procedures for Subdividing or Combining	41
Article 20 – Special Declarant’s Rights	42
Article 21 – Amendment of Declaration, Survey Map, Plans	44
Article 22 – Miscellaneous	46
Article 23 – Special Declarant Rights; Development Rights	48
Article 24 – Construction of Unit Structures	49
Article 25 – Dispute Resolution	49

Pursuant to the Act defined in Article 1 and for the purpose of submitting the property hereinafter described to the provisions of said Act, the undersigned, being sole owner(s), lessee(s) or possessor(s) of said property, make the following Declaration. By acceptance of a conveyance, contract for sale, lease, rental agreement, or any form of security agreement or instrument, or any privileges of use or enjoyment, respecting the property or any Unit in the condominium created by this Declaration, it is agreed that this Declaration, together with the Survey Map and Plans referred to herein, states covenants, conditions, restrictions, and reservations effecting a common plan for the condominium development mutually beneficial to all of the described Units, and that the covenants, conditions, restrictions, reservations and plan are binding upon the entire condominium and upon each such Unit as a parcel of realty, and upon its owners or possessors, and their heirs, personal representatives, successors and assigns, through all successive transfers of all or part of the condominium or any security interests therein, without requirement of further specific reference or inclusion in deeds, contracts or security instruments and regardless of any subsequent forfeitures, foreclosures, or sales of Units under security instruments.

The name of this condominium is L Avenue Condos, a Condominium.

#### **Article 1** **INTERPRETATION**

A. Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of this condominium under the provisions of Washington law. It is intended and covenanted also that, insofar as it affects this Declaration and condominium, the provisions of the Act under which this Declaration is operative, shall be liberally construed to effectuate the intent of this Declaration insofar as reasonably possible.

B. Consistent with Act. The terms used herein are intended to have the same meaning given in the Act unless the context clearly requires otherwise or to so define the terms would produce an illegal or improper result.

C. Covenant Running with Land. It is intended that this Declaration shall be operative as a set of covenants running with the land, or equitable servitudes, binding on Declarant, its successors and assigns, all subsequent owners of the property, together with their grantees, successors, heirs, executors, administrators, devisees or assigns, supplementing and interpreting the Act, and operating independently of the Act should the Act be, in any respect, inapplicable.

D. Percent of Owners or Mortgagees. For purposes of determining the percentage of owners or mortgagees, or percentage of voting power for, approving a proposed decision or course of action in cases where an owner owns, or a mortgagee holds mortgages on, more than one Unit, such owner shall be deemed a separate owner for each such Unit so owned and such mortgagee shall be deemed a separate mortgagee for each such first mortgage so held.

E. Declarant Is Original Owner. Declarant is the original owner of all Units and property and will continue to be deemed the owner thereof except as conveyances or documents changing such ownership regarding specifically described Units are recorded.

F. Captions and Exhibits. Captions given to the various Articles and Sections herein are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof. The various exhibits referred to herein and attached hereto shall be deemed incorporated herein by reference as though fully set forth where such reference is made.

G. Inflationary Increase in Dollar Limits. Any dollar amounts specified in this Declaration in connection with any proposed action or decision of the board or association may, in the discretion of the board, be increased proportionately by the increase in the consumer price index for urban wage earners and clerical workers; U.S. city average, all items 1967 equals 100 compiled by the Bureau of Labor Statistics, United States Department of Labor ("Index"). The Index for December 1979 which was 230 is the reference base index.

H. Definitions

i. The Act means the Washington Uniform Common Interest Ownership Act, RCW 64.90 et seq, (WUCIOA) effective July 1, 2018 as amended.

ii. Assessment means all sums chargeable by the association against a Unit including, without limitation: (a) regular and special Assessments for Common Expenses, charges, and fines imposed by the association; (b) interest and late charges on any delinquent account; and (c) costs of collection, including reasonable attorneys' fees, incurred by the association in connection with the collection of a delinquent owner's account.

iii. Association means all of the owners acting as a group in accordance with the Bylaws and with this Declaration as it is duly recorded and as they may be lawfully amended, which association is more particularly provided for in Article 8.

iv. Board means the board of directors of the association provided for in this Declaration.

v. Books and Records of the Association shall be given the broadest possible meaning and shall include, without limitation, exception or qualification, the following:

a. Declaration, Survey Map and Plans, Articles of Incorporation, Bylaws and other rules and regulations governing the condominium (or any part thereof), and all amendments thereto;

b. minute books, including all minutes, of all owner, board, officer, committee or other meetings relating to the condominium (or any part thereof), including

all reports, documents, communications or written instruments attached thereto or referenced therein);

c. all financial records, including without limitation canceled checks, bank statements, and financial statements of the association and source documents from the time of incorporation of the association through the current date;

d. all reports, documents, communications or written instruments pertaining to the personal property of the association or the condominium (or any part thereof);

e. all reports, documents, communications, written instruments, plans, and specifications pertaining to the construction, remodeling, maintenance, repair, replacement or condition of the condominium (or any part thereof);

f. all insurance policies or copies thereof for the condominium (or any part thereof) and association;

g. copies of any certificates of occupancy that may have been issued for the condominium (or any part thereof);

h. any other permits or notices issued by governmental bodies applicable to the condominium (or any part thereof) in force or issued;

i. all written warranties that are still in effect for the condominium (or any part thereof), or any other area or facilities which the association has the responsibility to maintain and repair, from the Declarant, contractor, subcontractors, suppliers, and manufacturers, together with all owners' manuals or instructions furnished with respect to installed equipment or building systems;

j. a roster of owners, officers and board members and eligible Members and their addresses and telephone numbers, if known;

k. all reports, documents, communications or written instruments pertaining to any litigation or other legal or mediation/arbitration proceeding (whether pending, threatened, or under consideration) to which the association (or board, officer or owner) is or may be a party, or which may relate to or affect the condominium (or any part thereof); and

l. all other reports, documents, communications or written instruments in any way relating to or affecting the association, board, officers, owners or the condominium (or any part thereof).

m. Any other reports, records required under the provisions of the Act.

vii. Bylaws shall mean the Bylaws of the association provided for in Article 8.

Declaration

Page 5 of 48

viii. Common Elements means all portions of the condominium other than the Units.

ix. Common Expenses means expenditures made by or financial liabilities of the association, together with any allocations to reserves.

x. Common Expense Liability means the liability for Common Expenses allocated to each Unit pursuant to Article 7.

xi. Condominium means the condominium created by this Declaration and related Survey Map and Plans pursuant to the Act.

xii. Conveyance means any transfer of the ownership of a Unit, including a transfer by deed or by real estate contract and with respect to a Unit in a leasehold condominium, a transfer by lease or assignment thereof, but shall not include a transfer solely for security.

xiii. Declarant means any person or group of persons acting in concert who (a) executed as Declarant this Declaration; or (b) reserves or succeeds to any Special Declarant Right under the Declaration.

xiv. Declarant Control means the right, if expressly reserved by this Declaration, of the Declarant or persons designated by the Declarant to appoint and remove association officers and board members, or to veto or approve a proposed action of the board or association; provided, in no event shall exercising the voting rights allocated to a Unit or Units owned by the Declarant or Declarant's affiliates be deemed Declarant Control.

xv. Declaration means this Declaration and any amendments thereto.

xvi. Development Rights means any right, if expressly reserved by the Declarant in this Declaration to: (a) add real property or improvements to the condominium; (b) create Units, Common Elements, or Limited Common Elements within real property included or added to the condominium; (c) subdivide Units or convert Units into Common Elements; (d) withdraw real property from the condominium; or (e) reallocate Limited Common Elements with respect to Units that have not been conveyed by the Declarant.

xvii. Dispose or Disposition means a voluntary transfer or conveyance to a purchaser or lessee of any legal or equitable interest in a Unit, but does not include the transfer or release of a security interest.

xviii. Eligible Mortgagee means a mortgagee of a Unit or the mortgagee of the condominium that has filed with the secretary of the association a written request that it be given copies of notices of any action by the association that requires the consent of mortgagees.

xix. Foreclosure means a forfeiture or judicial or non-judicial foreclosure of a mortgage or a deed in lieu thereof.

xx. Identifying Number means the designation of each Unit in a Condominium.

xxi. Limited Common Element means a portion of the Common Elements allocated by this Declaration (or by subsequent amendments thereto) or by operation of law for the exclusive use of one or more but fewer than all of the Units as provided in Article 6.

xxii. Manager means the person retained by the board to perform such management and administrative functions and duties with respect to the condominium as are delegated to such person and as are provided in a written agreement between such person and the association.

xxiii. Mortgage means a mortgage or deed of trust that creates a lien against a Unit and also means a real estate contract for the sale of a Unit.

xxiv. Mortgagee means the beneficial owner, or the designee of the beneficial owner, of an encumbrance on a Unit created by mortgage or deed of trust and shall also mean the vendor, or the designee of a vendor, of a real estate contract for the sale of a Unit. A mortgagee of the condominium and a mortgagee of a Unit are included within the definition of mortgagee.

xxv. Mortgagee of a Unit means the holder of a mortgage on a Unit, which mortgage was recorded simultaneous with or after the recordation of this Declaration. Unless the context requires otherwise, the term mortgagee of a Unit shall also be deemed to include the mortgagee of the condominium.

xxvi. Mortgagee of the Condominium means the holder of a mortgage on the property which this Declaration affects, which mortgage was either recorded prior to the recordation of this Declaration; or was recorded against all Units after the recordation of this Declaration but prior to the recorded conveyance of any Unit. The term mortgagee of the condominium does not include mortgagees of the individual Units.

xxvii. Person means a natural person, corporation, partnership, limited partnership, trust, governmental subdivision or agency, or other legal entities.

xxviii. Property or Real Property means any fee, leasehold or other estate or interest in, over, or under the land described in Exhibit A, including buildings, structures, fixtures, and other improvements thereon and easements, rights and interests appurtenant thereto which by custom, usage, or law pass with a conveyance of land although not described in the contract of sale or instrument of conveyance. Property included parcels, with or without upper or lower boundaries, and spaces that may be filled with air or water, and all personal property intended for use in connection therewith.

xxix. Purchaser means any person, other than Declarant, who by means of a disposition acquires a legal or equitable interest in a Unit other than (a) a leasehold interest including renewal options, of less than twenty years at the time of creation of the Unit, or (b) as security for an obligation.

xxx. Renting or Leasing a Unit means the granting of a right to use or occupy a Unit, for a specified term or indefinite term (with rent reserved on a periodic basis), in exchange for the payment of rent (that is, money, property or other goods or services of value); but shall not mean and include joint ownership of a Unit by means of joint tenancy, tenancy-in-common or other forms of co-ownership.

xxxi. Residential Purposes means use for dwelling or recreational purposes, or both.

xxxii. Special Declarant Rights means rights, if expressly reserved in this Declaration for the benefit of Declarant to:

- a. complete improvements indicated on Survey Maps and Plans filed with the Declaration under RCW 64.90.245 ;
- b. exercise any Development Right under Article 20;
- c. maintain sales offices, management offices, signs advertising the condominium, and models under Article 23;
- d. use easements through the Common Elements for the purpose of making improvements within the condominium or within real property which may be added to the condominium;
- e. to construct residential structures within airspace units.. A residential structure may be constructed by the declarant under special declarant rights.

xxxiii. Survey Map and Plans means the survey map and the plans recorded simultaneously with this Declaration and any amendments, corrections, and addenda thereto subsequently recorded.

xxxiv. Unit means a portion of the condominium designated for separate ownership, the boundaries of which are described pursuant to Article 4.

xxxv. Unit Owner means, subject to Article 1, a Declarant or other person who owns a Unit but does not include a person who has an interest in a Unit solely as security for an obligation; or is merely "renting" or "leasing" a Unit as defined in Article 1. Owner means the vendee, not the vendor, of a Unit under a real estate contract

xxxvi. Unit Structure means the improvements located or to be located within a Unit.

I. Construction and Validity

- i. All provisions of the Declaration and Bylaws are severable.
- ii. The rule against perpetuities may not be applied to defeat any provision of the Declaration, Bylaws, rules, or regulations adopted pursuant to RCW 64.90.225.
- iii. In the event of a conflict between the provisions of the Declaration and the Bylaws, the Declaration prevails except to the extent the Declaration is inconsistent with the Act.
- iv. The creation of this condominium shall not be impaired and title to the Unit and Common Elements shall not be rendered unmarketable or otherwise affected by reason of an insignificant failure of the Declaration or Survey Map and Plans or any amendment thereto to comply with the Act.
- v. If the Declaration or Bylaws now or hereafter provide that any officers or directors of the association must be Unit owners, then notwithstanding the definition contained in Article 1 Section H the term "Unit owner" in such context shall, unless the Declaration or Bylaws otherwise provide, be deemed to include any director, officer, partner in, or trustee of any person, who is, either alone or in conjunction with another person or persons, a Unit owner. Any officer or director of the association who would not be eligible to serve as such if he or she were not a director, officer, partner in, or trustee of such a person shall be disqualified from continuing in office if he or she ceases to have any such affiliation with that person, or if that person would have been disqualified from continuing in such office as a natural person.

**Article 2**

**DESCRIPTION OF REAL PROPERTY**

The real property included in the condominium is described in Exhibit A attached hereto.

**Article 3**

**DESCRIPTION OF UNITS**

A. Description of Units: There will be two (2) airspace Units and in each Unit there is constructed a residential structure.

Exhibit B attached hereto sets forth the following:

- i. Number of Units. The number of Units which Declarant has created.

Declaration

Page 9 of 48

ii. Unit Name. The Identifying Name assigned each Unit created by this Declaration.

iii. Unit Description. With respect to each existing Unit:

- a. The approximate square footage.
- b. The Unit is an envelope of defined space in which there shall be included a Unit structure.

#### **Article 4** **BOUNDARIES**

A. Unit Boundaries. Units shall consist of an envelope of space, the perimeter boundaries of which on the surface of the land as located and depicted on the Survey Map and Plans and which vertical boundaries extend below and above the ground elevation for each Unit as shown on the Survey Map and Plans which is. 125 feet NAVD'88, down to 75 NAVD '88 (mean sea level) of the Unit. A Unit shall include all structures, improvements, and fixtures now or hereafter located within said space.

B. Monuments as Boundaries. Any physical boundaries of a Unit constructed in substantial accordance with the original Survey Map and Plans thereof become its boundaries rather than the bounds expressed in the Survey Map and Plans, regardless of settling or lateral movements of the said physical boundaries or minor variances between boundaries shown on the Survey Map and Plans and those of any said physical boundaries. This Section does not relieve a Declarant or any other person of liability for failure to adhere to the Survey Map and Plans.

C. Relocation of Boundaries, Adjoining Units.

i. In General. Subject to the provisions of the Declaration and other provisions of law, the boundaries between adjoining Units may only be relocated by an amendment to the Declaration upon application to the association by the owners of those Units. If the owners of the adjoining Units have specified a reallocation between their Units of their Allocated Interests, the application must state the proposed reallocations. Unless the board determines within thirty days that the reallocations are unreasonable, the association shall prepare an amendment that identifies the Units involved, states the reallocations, is executed by those Unit owners, contains words or conveyance between them and is recorded in the name of the grantor and the grantee.

ii. Survey Map and Plans. The association shall maintain and record Survey Map and Plans complying with the requirements of the Act necessary to show the altered boundaries between adjoining Units and their dimensions and Identifying Numbers.

**Article 5**  
**DESCRIPTION OF COMMON ELEMENTS**

A common element is any part of the condominium property that is not in a Unit.

**Article 6**  
**DESCRIPTION OF LIMITED COMMON ELEMENTS**

There are no limited common elements as designated on the survey map and plan.

**Article 7**  
**ALLOCATED INTERESTS**

The formula for determining the undivided interest in the Common Expenses, shall be as follows: 100 divided by the number of units, which is two (2) therefore each unit has an undivided 50% interest in the common elements.

The allocation of votes shall be as follows: Each Unit shall have one vote so that the total number of votes shall be the total number of Units.

**Article 8**  
**OWNER'S ASSOCIATION**

A. Form of Association. The association shall be organized as a non-profit corporation under the laws of the State of Washington and shall be known as L Avenue Condos Owners Association.

B. Membership.

i. Qualification. Each owner (including Declarant) shall be a member of the association and shall be entitled to one membership for each Unit so owned; provided, that if a Unit has been sold on contract, the contract purchaser shall exercise the rights of the Unit owner for purposes of the association, this Declaration, and the Bylaws, except as hereinafter limited, and shall be the voting representative unless otherwise specified. Ownership of a Unit shall be the sole qualification for membership in the association.

ii. Transfer of Membership. The association membership of each owner (including Declarant) shall be appurtenant to the Unit giving rise to such membership, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon the transfer of title to said Unit and then only to the transferee of title to such Unit. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Unit shall operate automatically to transfer the membership in the association appurtenant thereto to the new owner thereof.

Declaration

Page 11 of 48

C. Voting.

i. Number of Votes. The total voting power of all owners shall be equal to the total number of Units, with one vote allocated to each Unit.

ii. Multiple Owners. If only one of the multiple owners of a Unit is present at a meeting of the association, the owner is entitled to cast all the votes allocated to that Unit. If more than one of the multiple owners are present, the votes allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the multiple owners. There is majority agreement if any one of the multiple owners casts the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the Unit.

iii. Proxies. Votes allocated to a Unit may be cast pursuant to a proxy duly executed by a Unit owner. If a Unit is owned by more than one person, each owner of the Unit may vote or register protest to the casting of votes by the other owners of the Unit through a duly executed proxy. A Unit owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated or purports to be revocable without notice. Unless stated otherwise in the proxy, a proxy terminates eleven months after its date of issuance.

iv. Association Owned Units. No votes allocated to a Unit owned by the association may be cast and in determining the percentage of votes required to act on any matter, the votes allocated the Units owned by the association shall be disregarded.

v. Pledged Votes. If an owner is in default under a first mortgage for ninety (90) consecutive days or more, the mortgagee shall automatically be authorized to declare at any time thereafter that the Unit owner has pledged his or her vote on all issues to the mortgagee during the continuance of the default. If the board has been notified of any such pledge to a mortgagee, or in the event the record owner or owners have otherwise pledged their vote regarding special matters to a mortgagee under a duly recorded mortgage, only the vote of such mortgagee or vendor, will be recognized in regard to the special matters upon which the vote is so pledged, if a copy of the instrument with this pledge has been filed with the board. Amendments to this subsection shall only be effective upon the written consent of all the voting owners and their respective mortgagees, if any.

D. Meetings, Notices and Quorums.

i. Meetings. A meeting of the association must be held at least once each year. Special meetings of the association may be called by the president, a majority of the board, or by Unit owners having twenty percent of the votes in the association. Not less than fourteen days and not more than fifty days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be transmitted by mail, private carrier, personal delivery, telegraph or teletype, or telephone, wire, or wireless equipment that transmits a facsimile of the notice. The notice may be provided in an electronic transmission in accordance

with RCW 64.90.515. The notice of any meeting shall state the time and place of the meeting and the items on the agenda to be voted on by the members, including the general nature of any proposed amendment to the Declaration or Bylaws, changes in the previously approved budget that result in a change in Assessment obligations, and any proposal to remove a director or officer.

ii. Quorums.

a. A quorum is present throughout any meeting of the Unit owners if the persons entitled to cast 100% of the votes in the association: a) are present in person or by proxy at the beginning of the meeting; b) have voted by absentee ballot, or c) are present by any combination of a) and b).

b. A quorum is deemed present throughout any meeting of the board if persons entitled to cast 100% percent of the votes on the board are present at the beginning of the meeting.

E. Bylaws of Association.

i. Adoption of Bylaws. Bylaws (and amendments thereto) for the administration of the association and the property, and for other purposes not inconsistent with the Act or with the intent of this Declaration shall be adopted by the association upon concurrence of those voting owners holding a majority of the total voting power. Amendments to the Bylaws may be adopted at any regular or special meeting. Declarant may adopt initial Bylaws.

ii. Bylaws Provisions. The Bylaws may contain supplementary, not inconsistent, provisions regarding the operation and administration of the condominium.

**Article 9**

**MANAGEMENT OF CONDOMINIUM**

A. Administration of the Condominium. The Unit owners covenant and agree that the administration of the condominium shall be in accordance with the provisions of this Declaration and the Articles of Incorporation and Bylaws of the association which are incorporated herein by reference and made a part hereof.

B. Election and Removal of Board and Officers.

i. Election by Owners in General. The Unit owners (including Declarant and any Affiliate of Declarant to the extent Units are owned by Declarant or any such Affiliate) shall elect a board of at least two members, at least a majority of whom must be Unit owners. The board shall elect the officers. Such members of the board and officers shall take office upon election.

ii. Election by Owners, Other Than Declarant.

a. The affairs of the association shall initially be governed by a board composed of at least one (1) but not more than two (2) members as determined by Declarant.

b. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units which may be created to Unit owners other than Declarant at least one (1) member and not less than twenty-five percent (25%) of the members of the board may be elected by Unit owners other than Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units which may be created to Unit owners other than a Declarant, not less than fifty per cent (50%) of the members of the board may be elected by Unit owners other than the Declarant.

c. The period of Declarant control terminates no earlier than (a) sixty (60) days after conveyance of seventy-five (75%) percent of the Units which may be created to Unit owners other than the Declarant; (b) two years after the first conveyance or transfer of record of a Unit, except as security for a debt; (c) two years after any development right to add new Units was exercised; (d) the date on which the Declarant records an amendment to the Declaration pursuant to which the Declarant voluntarily surrenders the right to further appoint and remove officers and members of the board of directors.

d. Within thirty (30) days after the termination of any period of Declarant control or, in the absence of such period, not later than a date that is sixty (60) days after the conveyance of seventy-five (75%) percent of the Units that may be created to Unit owners other than the declarant, the board must schedule a transition meeting and elect two (2) directors and provide notice to the Unit owners in accordance with RCW 64.90.515 of the Act. The board of directors shall then elect officers. Such members of the board of directors and officers shall take place upon election.

iii. Taking Office; Officers. The board shall elect the officers of the association. Such members of the board and officers shall take office upon election.

iv. Removal. The Unit owners present in proxy, in person or by absentee ballot at any meeting of the Unit owners at which a quorum is present may remove any board member and any officer elected by the Unit owners with or without cause if the number of votes in favor of removal cast by the Unit owners entitled to vote for election of the board member or officer proposed to be removed is at least the lessor of: a) a majority of votes in the association held by such Unit owners, or b) two-thirds (2/3) of the votes cast by such Unit owners at a meeting provided: a) a board member appointed by the declarant may not be removed by a Unit owner vote during any period of declarant control, b) a board member appointed under RCW 64.90.420(3) of the Act may be removed only by the person that appointed that member, and c) the Unit owners may not consider whether to remove a board member or officer at a meeting of the Unit owners unless the subject was listed in the notice of the meeting.

C. Management by Board.

i. On Behalf of Association. Except as otherwise provided in the Declaration, or the Bylaws, the board shall act in all instances on behalf of the association. In the performance of their duties, the officers and members of the board are required to exercise ordinary and reasonable care.

ii. Not on Behalf of Association. The board shall not act on behalf of the association to amend the Declaration in any manner that requires the vote or approval of the Unit owners pursuant to Article 20, to terminate the condominium pursuant to RCW 64.90.290 of the Act, or to elect members of the board or determine the qualifications, powers, and duties, or terms of office of members of the board pursuant to Article 9; but the board may fill vacancies in its membership for the unexpired portion of any term.

iii. Budget Approval. Within thirty days after adoption of any proposed budget for the condominium, the board shall provide a summary of the budget to all the Unit owners and shall set a date for a meeting of the Unit owners to consider ratification of the budget not less than fourteen nor more than fifty days after mailing of the summary. Unless at that meeting the owners of Units to which a majority of the votes in the association are allocated reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the Unit owners shall be continued until such time as the Unit owners ratify a subsequent budget proposed by the board.

D. Authority of the Association.

i. The association acting by and through the board, or a Manager appointed by the board, for the benefit of the condominium and the owners, shall enforce the provisions of this Declaration and of the Bylaws and shall have all powers and authority permitted to the association under the Act and this Declaration, including without limitation:

a. Adopt and amend Bylaws, rules, and regulations;

b. Adopt and amend budgets for revenues, expenditures, and reserves, and impose and collect assessments for Common Expenses from Unit owners;

c. Hire and discharge or contract with managing agents and other employees, agents, and independent contractors;

d. Subject to the provisions of the Declaration, institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Unit owners on matters affecting the condominium; provided, that on matters affecting a Unit the association must obtain the prior written consent of the owner of the Unit affected;

e. Make contracts and incur liabilities;

- f. Impose and collect charges for late payment of assessments and, after notice and an opportunity to be heard by the board or by such representative designated by the board and in accordance with such procedures as provided in the Declaration or Bylaws or rules and regulations adopted by the board levy reasonable fines in accordance with a previously established schedule thereof adopted by the board and furnished to the owners for violations of the Declaration, Bylaws, and rules and regulations of the association;
- g. Impose and collect reasonable charges for the preparation and recording of amendments to the Declaration, resale certificates required by RCW 64.90.640 of the Act and statements of unpaid Assessments;
- h. Provide for the indemnification of its officers and board and maintain directors' and officers' liability insurance;
- i. Assign its right to future income, including the right to receive common expense assessments, but only to the extent the Declaration provides;
- j. Exercise any other powers conferred by the Declaration or Bylaws;
- k. Exercise all other powers that may be exercised in this state by the same type of corporation as the association;
- l. Exercise any other powers necessary and proper for the governance and operation of the association;
- m. If the Unit owner has failed to perform any maintenance or repairs required under the terms of this Declaration, or if said Unit owner fails or refuses to perform such maintenance or repair within a reasonable time after written notice has been delivered by the board to the owner, then in that event, the board shall levy a special charge against the Unit of such owner for the costs of such maintenance or repair and perform the maintenance and/or repair work necessary; and
- n. Pay any amount necessary to discharge any lien or encumbrance levied against the entire property or any part thereof which is claimed to or may, in the opinion of the board, constitute a lien against the property, rather than merely against the interest therein of particular owners. Where one or more owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it, and any costs and expenses (including court costs and attorney fees) incurred by the board by reason of such lien or liens shall be specially charged against the owners and the Units responsible to the extent of their responsibility.
- ii. Nothing herein contained shall be construed to give the association authority to conduct an active business for profit on behalf of all of the owners or any of them.

E. Association Records and Funds.

i. Records and Audits. The association shall keep financial records sufficiently detailed to enable the association to comply with RCW 64.90.475 of the Act in providing resale certificates. All Books and Records of the association (as defined in Article 1) shall be made reasonably available (at all reasonable hours of weekdays or under other reasonable circumstances) for examination and copying by Declarant, and any owner, mortgagee, insurer and guarantor of any mortgage on any Unit, or their agents.

ii. Fund Commingling. The funds of the association shall be kept in accounts in the name of the association and shall not be commingled with the funds of any other association, nor with the funds of any Manager of the association or any other person responsible for the custody of such funds. Any reserve funds of the association shall be kept in a segregated account and any transaction affecting such funds, including the issuance of checks, shall require the signature of at least two persons who are officers or directors of the association.

F. Association as Trustee. With respect to a third person dealing with the association in the association's capacity as a trustee, the existence of trust powers and their proper exercise by the association may be assumed without inquiry. A third person is not bound to inquire whether the association has power to act as trustee or is properly exercising trust powers. A third person, without actual knowledge that the association is exceeding or improperly exercising its powers, is fully protected in dealing with the association as if it possessed and properly exercised the powers it purports to exercise. A third person is not bound to assure the proper application of trust assets paid or delivered to the association in its capacity as trustee.

G. Termination of Contracts and Leases. If entered into before the board elected by the Unit owners pursuant to Article 9 takes office, (1) any management contract, employment contract, or lease or recreational or parking areas or facilities, (2) any other contract or lease between the association and a Declarant or an Affiliate of a Declaration, or (3) any contract or lease that is not bona fide or was unconscionable to the Unit owners at the time entered into under the circumstances then prevailing may be terminated without penalty by the association at any time after the board elected by the Unit owners pursuant to Article 9 takes office upon not less than ninety days' notice to the other party or within such lesser notice period provided for without penalty in the contract or lease. This Section does not apply to any lease, the termination of which would terminate the condominium or reduce its size, unless the real property subject to that lease was included in the condominium for the purpose of avoiding the right of the association to terminate a lease under this Section.

H. Governmentally Required Maintenance, etc. Any insurance, maintenance, repair, replacement, alteration or other work, or the monitoring of such work,

which is required by any governmental entity (including without limitation, federal, state or local government, public or private utility provider, local improvement district, or other governmental or quasi-governmental entity or agency), and regardless of whether such requirement is now or hereafter established, and whether imposed in connection with a building permit or other governmental approval or requirement, and whether involving land within public rights of way or subject to ownership or exclusive use of one owner, shall be the sole and exclusive responsibility of the association (not the Declarant) and any cost incurred in connection therewith shall be a Common Expense. In furtherance of the generality of the foregoing, and not by way of limitation, such work shall include: maintenance of any grass-lined swales and proper disposal of clippings; maintenance of wetland plantings; replacement of wetland and landscape plantings that die during any required maintenance period; maintenance of public and private storm sewer and retention systems. Declarant shall have the right but not the obligation, to perform any such work if the association fails to do so. The association shall promptly upon demand reimburse Declarant for any costs directly or indirectly incurred by declarant as a result of the Declarant performing or the association's failure to perform, such work (including any work necessary to obtain a release, or avoid a forfeiture, of any cash deposit or other bond made by Declarant.

- I. Maintenance Repair, Inspection and Warranty Procedure. The association shall defend, indemnify and hold Declarant harmless from any expense or claim arising from or relating to any association's failure to promptly and properly maintain, repair or inspect the condominium (or any part thereof), or the association's failure to promptly and properly make a claim (or comply with dispute resolution procedures) under any warranty obtained or issued by Declarant. Declarant shall not be liable under any express or implied warranty (including without limitation the implied warranties under RCW 64.90) for loss or damage which the association or owners have not taken timely action to minimize, or which is caused or made worse by a failure to properly and promptly maintain, repair, or inspect (including without limitation failure to fully comply with any inspection, monitoring, maintenance or repair checklist, manual or recommendation provided by Declarant (or a contractor, subcontractor or manufacturer) to the association or owners.

J. Association Litigation.

- i. The term "Legal Proceedings" as used herein shall include litigation, Administrative mediation, arbitration or other proceedings in the name of the association on behalf of itself or one or more Unit owners on matters affecting the condominium.

ii. The provisions of this Article 9 shall not apply to Legal Proceedings, as a result of which the association could not be held responsible for costs of suit (including fees for attorneys, experts, witnesses, investigations and other costs of suit) in an aggregate amount of not more than \$5,000 (including without limitation fees contingent on a result), and which involve:

a. collection of delinquent regular or special Assessments, the enforcement of any Assessment lien and interest and penalties in connection therewith;

b. collection of monies owed to the association, or recovery of damages caused to the association or condominium (or any part thereof), when the principal amount to be recovered involves less than \$25,000;

c. enforcement of the provisions of the Declaration, Articles, Bylaws or rules and regulations of the association;

d. defense of a claim against the association, when the principal amount to be recovered involves less than \$25,000; or

e. the filing of a complaint, answer or other pleading for the limited purpose satisfying a statute of limitation deadline, avoiding entry of a default order or judgment, or preventing personal injury or serious harm to the condominium (if such purpose is certified in good faith by the association's attorney), but except for this limited purpose the other conditions of Article 9 must be satisfied.

iii. In order for the association (or the board acting on behalf of the association) to institute, defend, or intervene in Legal Proceedings, and in order for the association to become obligated in the aggregate sum in excess of \$5,000, to professionals, consultants or other experts in connection with Legal Proceedings, the following conditions must first be satisfied:

a. the board has received a detailed written summary (Litigation Summary) concerning the substance of the proceeding, including: (i) agreements with lawyers, experts and consultants; issues involved; (ii) legal and factual basis of anticipated allegations on behalf of and against the association; (iii) remedies to be sought on behalf of and against the association; (iv) estimated amount to be sought on behalf of (and that could be sought from) the association, (v) association's estimated costs of suit (including fees for attorneys, experts, witnesses, investigations and other costs of suit) and any third-party costs of suit that the association would pay if the association does not prevail; (vi) reports and recommendations by any professionals or consultants retained by the association (and by any opposing party, if available); (vii) any written demands or settlements offers made by an opposing party (the board shall request that an opposing party make such demand and settlement offer); and (viii) any negative consequences that the association, condominium or owners could suffer during such

proceedings including required disclosures to prospective purchasers, impediments to Unit refinancing, or diminishment of Unit value.

b. if the proceeding will involve a claim against the Declarant (or Declarant's contractor, subcontractors, vendors, suppliers or other professionals) concerning construction defects or other condition of the condominium, the Litigation Summary will also include: a description of the construction defects or other condition (which shall also have been transmitted to the Declarant); and any written response from the Declarant concerning such defects (including any offer to settle by performing remedial work, payment of cash or a combination of both).

c. A copy of the Litigation Summary shall be transmitted to all owners, together with a written notice of the owner's right of access to the Books and Records of the association as provided in Article 9, and a written notice of a special owner's meeting to be convened as provided in this Declaration, at which meeting the Declarant (and its representatives shall be entitled to attend and participate in on a non-voting basis).

d. The owners holding sixty-six and two-thirds percent (662/3%) of the total association voting power must grant approval for the association (or the board acting on behalf of the association) to institute, defend, or intervene in legal proceedings, provided, that under no circumstances may legal proceedings be commenced against Declarant (or Declarant's contractor, subcontractors, vendors, suppliers or other professionals) with respect to any alleged construction defect or other condition which Declarant has agreed in writing to remedy and is proceeding with reasonable due diligence to do so.

#### Article 10

#### USE, REGULATION OF USES, AND ARCHITECTURAL UNIFORMITY

- A. Residential Units. The Units shall be used for Residential Purposes only, including sleeping, eating, food preparation for on-site consumption by occupants and guests, entertaining by occupants of personal guests and similar activities commonly conducted within a residential dwelling, without regard to whether the Unit owner or occupant resides in the Unit as a primary or secondary personal residence, on an ownership, rental, lease or invitee basis; for such other reasonable ancillary purposes commonly associated with residential dwellings and otherwise in compliance with the Declaration and applicable law in residential dwellings; for the common social, recreational or other reasonable uses normally incident to such purposes; and for purposes of operating the association and managing the condominium. The Units can be used as a professional business office subject to the condition that there are no business visits to the Unit by customers or clients of the Unit owner or occupant and said Unit owner shall comply with all applicable governmental regulations and codes with respect to such use.

B. Vehicle Parking Restrictions. Only passenger automobiles, vans, and small pick-up trucks are permitted to be parked within the Units and only on the gravel or other hard surface parking area within that Unit or the garage if there is a garage constructed on the Unit.

C. Unit Maintenance:

- i. Standard of Condition. The Unit owner, at the Unit owner's sole cost and expense, shall maintain and repair the exterior and interior of the Unit structure in good condition, order and repair.
- ii. Landscaping and Fencing. Each Unit owner shall maintain the yard and landscaping within its Unit in good condition and repair. .
- iii. Cooperation among Unit Owners. The Unit owners shall consult with each other and shall cooperate with respect to exterior painting, roofing, and other areas of Unit structures that may affect all Units. Each owner shall be solely responsible for the maintenance and repair of that portion of the Unit structure within the boundaries of the Unit. If the Unit owners cannot agree with regard to the Unit structure within each Unit owners, then the matter shall be submitted to arbitration as set forth in the Declaration.

D.

No refuse, garbage or trash of any kind shall be thrown, placed or kept on any Unit outside of the disposal facilities provided for such purposes.

Every Unit owner and occupant shall at all times keep interior of the Unit structure in a strictly clean and sanitary condition, free of rodents and pests, and observe and perform all laws, ordinances, rules and regulations, including kennel laws and animal control law

J. Rental of Units.

- i. Rental Defined and Regulated. The rental of a Unit shall be governed by the provisions of the Declaration, including without limitations this Section. As used in the Declaration the terms "to rent", "renting" or "Rental" shall refer to and include the Leasing or Renting of a Unit by its Owner and to the occupancy of a Unit solely by a person or persons other

than its Owner; provided that for the purpose of the regulation of Rentals as provided in this Section, the terms "to rent", "renting" or "Rental" shall not refer to the occupancy of a Unit by a Related Party. The rights of the Association and the obligations applicable to an Owner under this Section shall be applicable to any Tenant who subleases a Unit or enters into an assignment of a Lease for a Unit, and the obligations of a Tenant shall likewise be applicable to the subtenant or assignee of a Tenant in such a situation.

- ii No Minimum Lease Term Required. The Unit Owner shall be permitted to lease or rent the Unit for any term including overnight and short-term rentals.
- K. Timesharing. Timesharing, as defined in the Washington Timeshare Act, is prohibited.
- L. Fireplaces. All fireplaces within a dwelling structure must comply with the most stringent of the Federal, State or local laws in effect at the time the fireplace is installed.

#### **Article 11**

#### **COMMON EXPENSES AND ASSESSMENTS**

A. Estimated Expenses. Within sixty (60) days prior to the beginning of each calendar year, or such other fiscal year as the board may adopt, the board: shall estimate the charges including Common Expenses, and any special charges for particular Units to be paid during such year; shall make provision for creating, funding and maintaining reasonable reserves for contingencies and operations, as well as for maintenance repair, replacement and acquisition of Common Elements; and shall take into account any expected income and any surplus available from the prior year's operating fund.

B. Payment by Owners. Each owner shall be obligated to pay its share of Common Expenses and special charges made pursuant to this Article to the treasurer for the association in annual installments on or before the 15<sup>th</sup> day of January during such year, or in such other reasonable manner as the board shall designate. No owner may exempt himself from liability for payment of assessments for any reason, including waiver of use or enjoyment of any of the Common Elements or abandonment of the owner's Unit.

- C. Commencement of Assessments. Assessments for common expenses and specially allocated expenses must commence on all Units upon the conveyance of the first Unit in the condominium; however, the declarant may delay commencement of assessments for some or all of the common expenses or specially allocated expenses, in which event the declarant must pay all of the common expenses or specially allocated expenses that have been delayed. .
- D. Allocated Liability. Except for Assessments under Article 11, all Common Expenses must be assessed against all the Units in accordance with the allocations set forth in Exhibit B. Any past due Common Expense Assessment or installment thereof bears interest at the rate established by the association pursuant to Article 11.
- E. Only Some Units Benefitted. The board may elect that any Common Expense or portion thereof benefitting fewer than all of the Units may be assessed exclusively against the Units benefitted.
- F. Utilities. Each owner shall pay the utility charges allocated and charged to that Unit and the cost and expense of repair for utility lines shall be the responsibility of the unit owner receiving the benefit of that utility service.
- G. Assessments for Judgment. Assessments to pay a judgment against the association pursuant to the Act may be made only against the Units in the condominium at the time the judgment was entered in proportion to their Allocated Common Expense Liabilities at the time the judgment was entered.
- H. Owner Misconduct. To the extent that any Common Expense is caused by the misconduct of any Unit owner, the association shall assess that expense against the owner's Unit.
- I. Reallocation. If Common Expense Liabilities are reallocated, Common Expense Assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense Liabilities.
- J. Lien for Assessments.
- i. Lien. The association has a lien on a Unit for any unpaid Assessments levied against a Unit from the time the Assessment is due.
  - ii. Priority. A lien under Article 11 shall be prior to all other liens and encumbrances on a Unit except: (a) liens and encumbrances recorded before the recording of the Declaration; (b) a mortgage on the Unit recorded before the date on which the Assessment sought to be enforced became delinquent; and (c) liens for real property taxes and other governmental assessments or charges against the Unit.

- iii. Mortgage Priority. The assessment lien except as provided above, shall be prior to the mortgages to the extent the Assessments for Common Expenses, (excluding any amounts for capital improvements, based on the periodic budget adopted by the association), which have become due in the absence of acceleration during the six months immediately preceding the institution of proceedings to foreclose either the association's lien or the security interest of a mortgage as described herein. The association's actual costs and reasonable attorney's fees incurred in foreclosing its lien but incurred after giving the notice as required by the Act shall also have priority provided the costs and reasonable attorney's fees shall not exceed \$2,000. The amount shall be prior to security interest or holder of a security interest on a Unit recorded before the date on which the unpaid assessment is due only if the association has given the holder not less than sixty (60) days prior written notice as required under the Act.
- iv. Recording as Notice. Recording of the Declaration constitutes record notice and perfection of the lien for Assessments. While no further recording of any claim of lien for Assessment under this section shall be required to perfect the association's lien, the association may record a notice of claim of lien for Assessments under this Section in the real property records of any county in which the condominium is located. Such recording shall not constitute the written notice of delinquency to a mortgagee referred to in Article 11.
- v. Limitation on Action. A lien for unpaid Assessments and the personal liability for payment of Assessments is extinguished unless proceedings to enforce the lien or collect the debt are instituted within six years after the amount of the Assessments sought to be recovered becomes due.
- vi. Foreclosure. The lien arising under Article 11 may be enforced judicially by the association or its authorized representative in the manner set forth in chapter 61.12 RCW. The association or its authorized representative shall have the power to purchase the Unit at the foreclosure sale and to acquire, hold, lease, mortgage, or convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption shall be eight months. Nothing in this Section shall prohibit an association from taking a deed in lieu of foreclosure.

The lien may be foreclosed nonjudicially in the manner set forth in RCW 61.24 for nonjudicial foreclosures of deed of trust and the declaration does hereby grant the property of the common interest community in trust to First American Title Insurance Company, qualified under RCW 61.24.010 to secure the obligations of the Unit owners to the association for the

payment of assessments and this declaration is hereby granted a power of sale and provides further that the Units are not used principally for agricultural purposes and the power of sale is operative in the case of a default and the obligation to pay assessments. Upon express waiver in the complaint of any right to a deficiency judgment and a judicial foreclosure action, the period of redemption is eight (8) months.

- vii. Receiver. From the time of commencement of an action by the association to foreclose a lien for nonpayment of delinquent Assessments against a Unit that is not occupied by the owner thereof, the association shall be entitled to the appointment of a receiver to collect from the lessee thereof the rent for the Unit as and when due. If the rental is not paid, the receiver may obtain possession of the Unit, refurbish it for rental up to a reasonable standard for rental Units in this type of condominium, rent the Unit or permit its rental to others, and apply the rents first to the cost of the receivership and attorneys' fees thereof, then to the cost of refurbishing the Unit, then to applicable charges, then to costs, fees, and charges of the foreclosure action, and then to the payment of the delinquent Assessments. Only a receiver may take possession and collect rents under this section, and a receiver shall not be appointed less than ninety days after the delinquency. The exercise by the association of the foregoing rights shall not affect the priority of preexisting liens on the Unit.
  - viii. Mortgagee Liability. Except as provided in Article 11, the holder of a mortgage or other Purchaser of a Unit who obtains the right of possession of the Unit through foreclosure shall not be liable for Assessments or installments thereof that became due prior to such right of possession. Such unpaid Assessments shall be deemed to be Common Expenses collectible from all the Unit owners, including such mortgagee or other purchaser of the Unit. Foreclosure of a mortgage does not relieve the prior owner of personal liability for Assessments accruing against the Unit prior to the date of such sale as provided in this Section.
  - ix. Lien Survives Sale. The lien arising under Article 11 shall not be affected by the sale or transfer of the subject Unit except in the event of sale through foreclosure, as provided in Article 11.
- K. Owner Liability. In addition to constituting a lien on the Unit, each Assessment shall be the joint and several obligations of the owner or owners of the Unit to which the same are assessed as of the time the Assessment is due. In a voluntary conveyance the grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid Assessments against the latter up to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. Suit to recover a personal judgment for

any delinquent Assessment shall be maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums.

- L. Late Charge. The association may from time to time establish reasonable late charges and a rate of interest to be charged on all subsequent delinquent Assessments or installments thereof in the absence of another established non-usurious rate, delinquent Assessments shall bear interest from the date of delinquency at the maximum rate permitted under RCW 19.52.020 on the date on which the Assessments became delinquent.
- M. Attorneys' Fees. The prevailing party shall be entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent Assessments, whether or not such collection activities result in suit being commenced or prosecuted to judgment. In addition, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees if it prevails on appeal and in the enforcement of a judgment.
- N. Assessment Certificate. The association, upon written request, shall furnish to a Unit owner or a mortgagee a statement signed by an officer or authorized agent of the association setting forth the amount of unpaid Assessments against that Unit. The statement shall be furnished within fifteen days after receipt of the request and is binding on the association, the board, and every Unit owner, unless and to the extent known by the recipient to be false.
- O. Acceleration of Assessments. In the event any annual Assessment or special charge attributable to a particular Unit remains delinquent for more than sixty (60) days, the board may, upon fifteen (15) days written notice to the owner of such Unit, accelerate and demand immediate payment of all, or such portion as the board determines, of the annual Assessments and special charges which the board reasonably determines will become due during the next succeeding twelve (12) months with respect to such Unit.
- P. Delinquent Assessment Deposit Working Capital.
- i. Delinquent Assessment Deposit.
- a. A Unit owner may be required by the board or by the Manager, from time to time, to make and maintain a deposit not less than one estimated annual Assessment and charges, which may be collected as are other Assessments and charges. Such deposit shall be held in a separate fund, be credited to the Unit owned by such owner, and be for the purpose of establishing a reserve for delinquent Assessments.
- b. Resort may be had thereto at any time when such owner is ten (10) days or more delinquent in paying his annual or other Assessments and charges. Said deposits shall not be considered as advance payments of regular Assessments. In the event the

board should draw upon said deposit as a result of a Unit owner's delinquency in payment of any Assessments, said owner shall continue to be responsible for the immediate and full payment of said delinquent Assessment (and all penalties and costs thereon) and thus the full restoration of said deposit, and the board shall continue to have all of the rights and remedies for enforcing such Assessment payment and deposit restoration as provided by this Declaration and by law.

c. Upon the sale of a Unit, the seller/Owner thereof shall not be entitled to a refund from the association of any deposit or reserve account made or maintained with respect to such Unit pursuant to this or any other Section of this Declaration; rather, any such deposit or reserve account shall continue to be held by the association for the credit of such Unit and the Unit Purchaser shall succeed to the benefit thereof, and the Unit seller shall be responsible for obtaining from the Purchaser appropriate compensation therefor.

ii. Working Capital Contribution. The first purchaser of any Unit may pay at the election of the Declarant to the association, in addition to other amounts due, an amount equal to two (2) months of annual Assessments as a contribution to the association's working capital. Such working capital contributions shall not be used to defray Declarant's expenses in completing the construction of the condominium, to pay Declarant's contributions to association reserves or to make up any deficits in the budget of the association. Upon the election of the first board by Unit owners other than Declarant, Declarant shall pay to the association as a working capital contribution an amount equal to two (2) months of annual Assessments for each of the Units then owned by Declarant. When a Unit owned by Declarant is sold, Declarant may apply funds collected at closing from the Purchaser to reimburse itself for funds paid to the association for such contribution with respect to that Unit.

## **Article 12**

### **INSURANCE**

- A. Each Unit owner, upon receipt of the conveyance of the Unit from the Declarant, shall obtain, maintain, and provide all risk or special cause of loss coverage in an amount equal to the full replacement costs of the Unit structure and the equipment, fixtures, appliances, and improvements in the Units, together with such endorsements as may be required by FNMA, VA, HUD/FHA or FHLMC. The policy shall provide a separate loss payable endorsement in favor of the mortgagee of the Unit. In addition, the Unit owner shall maintain liability insurance coverage with respect to the use of the Unit and shall name the board, the association, and the other Units as additional insureds under said policy.
- B. Required Provisions. Insurance policies carried pursuant to this Article shall:

- ii. Provide that the insurer waives its right to subrogation under the policy as to any and all claims against the association, the owner of any Unit and/or their respective agents, employees or tenants, and members of their household, and of any defenses based upon co-insurance or upon invalidity arising from the acts of the insured;
  - iii. Provide that no act or omission by any Unit owner, unless acting within the scope of the owner's authority on behalf of the association, nor any failure of the association to comply with any warranty or condition regarding any portion of the premises over which the association has no direct control, will void the policy or be a condition to recovery under the policy; and
  - iv. Contain no provision (other than insurance conditions) which will prevent mortgagees from collecting insurance proceeds; and
  - v. Contain, if available, an agreed amount and Inflation Guard Endorsement.
- C. Association Insurance. Association at its option shall maintain, to the extent reasonably available.
- i. Liability Insurance naming the members of the Board, the manager and its employees and such other persons as may be designated by the Board as principals and the Association and casualty insurance as to any common elements insured in such amounts as shall be determined by the Association.,
  - ii. Required Provisions. Insurance policies carried pursuant to this Article shall:
    - a. Provide that each Unit owner is an insured person under the policy with respect to liability arising out of the owner's interest in the common elements or membership in the Association;
    - b. Provide that the insurer waives its right to subrogation under the policy as to any and all claims against the Association, the owner of any Unit and/or their respective agents, employees or tenants, and members of their household, and of any defenses based upon co-insurance or upon invalidity arising from the acts of the insured;
    - c. Provide that no act or omission by any Unit owner, unless acting within the scope of the owner's authority on behalf of the Association, nor any failure of the Association to comply with any warranty or condition regarding any portion of the premises over

which the Association has no direct control, will void the policy or be a condition to recovery under the policy;

- d. Provide that if, at the time of a loss under the policy, there is other insurance in the name of a Unit owner covering the same risk covered by the policy, the Association's policy provides primary insurance, and that the liability of the insurer thereunder shall not be affected by, and the insurer shall not claim any right of set-off, counterclaims, apportionment, proration, contribution or assessment by reason of, any other insurance obtained by or for any Unit owner or any mortgagee;
  - e. Provide that, despite any provision giving the insurer the right to restore damage in lieu of a cash settlement, such option shall not be exercisable without the prior written approval of the Association, or when in conflict with the provisions of any insurance trust agreement to which the Association is a party, or any requirement of law;
  - f. Contain no provision (other than insurance conditions) which will prevent mortgagees from collecting insurance proceeds; and
  - g. Contain, if available, an agreed amount and inflation guard endorsement.
- iv. Claims Adjustment. Any loss covered by the property insurance under this Article must be adjusted with the owner of the insured Unit. The insurance proceeds for that loss are payable for benefit of insured Unit owner and lienholder as interest may appear for restoration and repair of insured Unit and may be paid to Association to do repair and restoration work. Subject to the provisions of this Article the proceeds must be disbursed first for the repair or restoration of the damaged property, and Unit owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Condominium is terminated.

- D. Certificate. An insurer that has issued an insurance policy under this Article shall issue certificates or memoranda of insurance to the association and, upon written request to any Unit owner or holder of a mortgage. The insurer issuing the policy may not modify the amount or the extent of the coverage of the policy or cancel or refuse to renew the policy unless the insurer has complied with all applicable provisions of Chapter 48.18 RCW pertaining to the cancellation or non-renewal of contracts of insurance. The insurer shall not modify the amount or the extent of the coverage of the policy, or cancel or refuse to renew the policy, without complying with the requirements of the Act.

- E. Notification on Sale of Unit. Promptly upon the conveyance of a Unit, the new Unit owner shall notify the association of the date of the conveyance and the Unit owner's name and address.

### **Article 13**

#### **DAMAGE AND REPAIR OR DAMAGE TO PROPERTY.**

- A. Restoration by Unit Owner. In the event a Unit structure or any portion within a Unit is damaged or destroyed, then the Unit owner must repair (as that term is defined under as set forth in this declaration) the Unit structure or improvements within the Unit within six (6) months after the date of casualty unless the damage or destruction requires replacement or rebuilding of the Unit structure in which event the Unit owner shall have twelve (12) months from the date of casualty to rebuild or replace, however, upon a showing of good cause, the Board of the Association may grant extension for such repair or replacement. In the event of repair, reconstruction or replacement by a Unit owner of a Unit structure or any improvement within a Unit, then all plan approvals must be submitted as provided for under this Declaration. The cost of repair in excess of insurance proceeds is the sole responsibility and at the expense of the Unit owner in which the Unit structure is located. The Unit owner does not have to repair or replace if a) the repair would be illegal under any state, local, health or safety ordinance or b) said Unit owner receives consent of eighty percent (80%) of the Unit owner's not to repair. The term "repair" means to rebuild, reconstruct, rebuild or restore the Unit structure to substantially the same condition that existed prior to the damage or destruction. Modifications to conform to then applicable governmental rules and regulations or available means of construction may be made.

### **Article 14**

#### **CONDEMNATION**

- A. Condemnation of Units or Unit Structures. If any Unit or Unit structure is condemned, then the condemnation award for that Unit or Unit structure shall be paid to the owner of that Unit and Unit structure and all mortgages and liens on the interest of each owner. In the event of a partial condemnation which does result in some but not all of the Units and Unit structures being condemned, then the condominium documents shall be amended to reflect any required elimination of Units and reallocation of percentage interest.
- B. Condemnation of Entire Property. In the event that the entire property is taken or condemned, or sold, or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership pursuant hereto shall terminate. The condemnation award with respect to the common and limited common areas shall be apportioned among the owners and shares proportionate to the respective undivided interest in the common element. If a standard different from the value of the property as a whole is employed to measure the condemnation award and

the negotiation, judicial decree, or otherwise, then in determining such shares, the same standard shall be employed to the extent it is relevant and applicable. On the basis of the foregoing principal, the board of directors shall as soon as practical, determine the share of the condemnation award to which each owner is entitled. After first paying their respective share of each owner and all mortgagees and liens on the interest of such owner, the balance remaining in such share shall then be distributed to each owner individually. Each Unit owner shall receive directly the condemnation award as it relates to the value of the Unit and Unit structure being condemned or otherwise disposed of as provided for herein.

#### **Article 15**

##### **COMPLIANCE WITH DECLARATION**

A. Enforcement. Each owner shall comply strictly with the provisions of this Declaration, the Bylaws and administrative rules and regulations passed hereunder, as the same may be lawfully amended from time to time, and with all decisions adopted pursuant to this Declaration, the Bylaws and administrative rules and regulations. Failure to comply shall be grounds for an action to recover sums due for damages, or injunctive relief, or both, maintainable by the board (acting through its officers on behalf of the owners), or by the aggrieved owner on his own against the party (including an owner or the association) failing to comply. In the event of a dispute between the Declarant and the association (Or the board or any owner), each party shall be solely responsible for payment of all legal fees incurred by that party, regardless of the nature of the dispute or who may be the prevailing party.

B. No Waiver of Strict Performance. The failure of the board in any one or more instances to insist upon the strict performance of this Declaration, of the Bylaws, or to exercise any right or option contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the board of any assessment from an owner, with knowledge of any such breach shall not be deemed a waiver of such breach, and no waiver by the board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the board.

#### **Article 16**

##### **LIMITATION OF LIABILITY**

A. Liability for Utility Failure, Etc. Except to the extent covered by insurance obtained by the board pursuant to Article 12, neither the association nor the board nor the Manager shall be liable for: any failure of any utility or other service to be obtained and paid for by the board; or for injury or damage to person or property caused by the elements, or resulting from electricity, noise, smoke, water, rain (or other liquid), dust or sand which may leak or flow from outside or from any parts of the buildings, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other places; or for inconvenience or discomfort resulting from any action taken to comply with any law, ordinance or orders of a governmental authority.

No diminution or abatement of Assessments shall be claimed or allowed for any such utility or service failure, or for such injury or damage, or for such inconvenience or discomfort.

B. No Personal Liability. So long as a board member, association committee member, or association officer has acted in good faith, without willful or intentional misconduct, upon the basis of such information as may be possessed by such person and such person's evaluation of such information, no such person (and no association manager acting pursuant to the directions of the board) shall be personally liable to any owner, or other party, including the association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence, including any discretionary decision, or failure to make a discretionary decision, by such person in such person's official capacity. Without limiting the generality of the foregoing, the term "discretionary decisions" shall include evaluating and deciding whether or not to act in response to reports, investigations or recommendations received by such person, and shall include deciding whether or not to commence, defend, continue, or settle lawsuits or arbitration/mediation or other legal proceedings involving the association or condominium (or any part thereof). Provided, that this Section shall not apply where the consequences of such act, omission, error or negligence are covered by insurance obtained by the board pursuant to Article 12.

C. Indemnification of Board Members. Each board member or association committee member, or association officer, shall be indemnified by the association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of being or having held such position at the time such expenses or liabilities are incurred, except in such cases wherein such person is adjudged guilty of willful or intentional misconduct, a knowing violation of the law in the performance of his duties and except in such cases where such person has participated in a transaction from which said person will personally receive a benefit in money, property or services to which said person is not legally entitled. Provided, that, in the event of a settlement, the indemnification shall apply only when the board approves such settlement and reimbursement as being in the best interest of the association, the association and each owner shall defend, indemnify and hold Declarant harmless from any claim, expense or liability based on the failure of the association or such owner to comply with applicable duties and obligations under the Declaration, Association Articles or Bylaws, or association rules and regulations or under any warranty obtained or issued by Declarant; or under applicable law.

D. Legal Proceedings. The rights, powers, benefits, duties and obligations granted to and imposed upon parties' subject to this Declaration (including without limitation the Declarant, owners, association, board and officers) shall not be restricted, diminished, or otherwise modified by threatened or pending legal proceedings (including without limitation litigation, administrative, mediation, or arbitration), which proceedings involve one or more of such parties.

#### **Article 17** **MORTGAGEE PROTECTION**

A. Change in Manager. In the event that professional management is employed by the association, at least thirty (30) days' notice of any contemplated change in the professional manager shall be given to any Eligible mortgagee. The association shall not elect to terminate professional management and assume self-management without the prior written approval of sixty-seven percent (67%) of the owners and fifty-one percent (51%) of all Eligible mortgagees; provided that such prior consent shall not be required to change from one professional manager to another professional manager.

B. Partitions and Subdivision. The association shall not combine nor subdivide any Unit or the appurtenant Limited Common Elements, nor abandon, partition, subdivide, encumber or sell any Common Elements, or accept any proposal so to do, without the prior written approval of one hundred percent (100%) of all Eligible mortgages and one hundred percent (100%) of owners of record of the Units, and without unanimous approval of the Eligible mortgagee(s) and owner(s) of the Unit(s), so affected.

C. Change in Percentages. The association shall not make any Material Amendment (as defined in Article 20) to this Declaration or Bylaws (including changes in the percentages of interest in the Common Elements) without the prior written approval of One hundred percent (100%) of all Eligible mortgagees and one hundred percent (100%) of all owners of record of the Units, and without unanimous approval of the Eligible mortgagee(s) and owner(s) of the Unit(s) for which the percentage(s) would be changed.

D. Copies of Notices. A mortgagee of a Unit (and any insurer or guarantor of such mortgage) shall be entitled to receive timely written notice: (a) that the owner/Mortgagor of the Unit has for more than sixty (60) days failed to meet any obligation under the condominium documents, (b) of all meetings of the association and be permitted to designate a representative to attend all such meetings; (c) of any condemnation loss or casualty loss affecting a material portion of the property or the Unit on which it holds a mortgage; (d) of any lapse, cancellation or material modification of insurance policies or fidelity bonds maintained by the association; and (e) of any proposed action that requires the consent of a specified percentage of mortgagees. To be entitled to receive notices under this Article 17, the mortgagee (or mortgage insurer or guarantor) must send a written request to the association stating both its name and address and the Unit number or address of the Unit on which it has (or insures or guaranties) the mortgage.

E. Effect of Declaration Amendments. No amendment of this Declaration shall be effective to modify change, limit or alter the rights expressly conferred upon mortgagees in this instrument with respect to any unsatisfied mortgage duly recorded unless the amendment shall be consented to in writing by the holder of such mortgage. Any provision of this Declaration conferring rights upon mortgagees which is inconsistent with any other provision of said Declaration or the Bylaws shall control over such other inconsistent provisions.

F. Insurance

i. Board Duties. With respect to a first mortgagee of a Unit the owner of the Unit and the board shall:

a. Cause any insurance carrier to include in the insurance policy a standard mortgage clause, naming any mortgagee who makes written request to the board to be so named;

b. Furnish any such mortgagee with a copy of any insurance policy or evidence thereof which is intended to cover the Unit on which such mortgagee has a lien;

c. Require any insurance carrier to give the owner of the Unit and the board and any and all insured (including such mortgagees) at least thirty (30) days' written notice before canceling, reducing the coverage or limits, or otherwise substantially modifying any insurance with respect to the property on which the mortgagee has a lien (including cancellation for a premium nonpayment);

ii. Additional Policy Provisions. In addition, the insurance policy acquired shall:

a. Provide that any reference to a mortgagee in such policy shall mean and include any holders of mortgages of any Unit or Unit lease, in their respective order and preference, whether or not named therein;

b. Provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the board or Unit owners or any persons claiming under any of them;

c. Waive any provision invalidating such mortgage clause by reason of: the failure of any mortgagee to notify the insurer of any hazardous use or vacancy; any requirement that the mortgagee pay any premium thereon; and any contribution clause.

G. Inspection of Books. Declarant (and Declarant's agents), owners, mortgagees, insurers and guarantors of any mortgage on any Unit shall be entitled: to inspect and copy at all reasonable hours of weekdays (or under other reasonable circumstances) all of the Books and Records of the association (as defined in Article 1), within a reasonable time following request; and, upon written request of any holder, insurer or guarantor of a first mortgage at no cost to the party so requesting,, to receive an annual audited financial statement of the association within ninety (90) days following the end of any fiscal year of the association.

**Article 18**  
**EASEMENTS**

- A. General. It is intended that in addition to rights under the Act, each Unit has an easement in and through each other Unit for all support elements and utility, wiring, heat and service elements, and for reasonable access thereto, as required to effectuate and continue proper operation of this condominium plan; and for the maintenance, repair and replacement of all improvements within each Unit. Each Unit as it is constructed is granted an easement for the location and maintenance of all the original equipment and facilities and utilities for such Unit.
- B. Association Functions. There is hereby reserved to the association, or their duly authorized agents and representatives, such easements and rights of access over, across, under or into the condominium (and any part thereof) as are necessary, for repairs, maintenance or replacement and/or to perform the rights, duties and obligations of the association as are set forth, provided for or authorized in: this Declaration; or in the Articles, Bylaws or association Rules.
- C. Declarant Functions. There is hereby reserved to the Declarant (and its duly authorized agents, employees, contractors and representatives), such easements and rights of access over, across, under or into the condominium (and any part thereof) as are necessary, for repairs, maintenance or replacement and/or to perform the rights, duties and obligations of the Declarant as are set forth, provided for or authorized in: this Declaration; Survey Map and Plans; Articles, Bylaws, or association Rules; building or other governmental permits or approvals; and Purchase and Sale Agreement between Declarant and a Unit Purchaser, any express or implied warranty under which Declarant is obligated; or otherwise authorized or required by law.
- D. Encroachments. Each Unit is hereby declared to have an easement over all adjoining Units for the purpose of accommodating any encroachment due to engineering errors, or errors in original construction, reconstruction, repair of any portion of the Building, or any other similar cause, and any encroachment due to building overhang or projection. There shall be valid easements for the maintenance of said encroachments so long as they shall exist and the rights and obligations of owners shall not be altered in any way by said encroachment; provided, however, that in no event shall a valid easement for encroachment be created in favor of an owner or owners if said encroachment occurred due to the willful act or acts with full knowledge of said owner or owners. In the event a Unit is partially or totally destroyed, and then repaired or rebuilt, the owners agree that minor encroachments over adjoining Units shall be permitted, and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist. The foregoing encroachments shall not be construed to be encumbrances affecting the marketability of title to any Unit.

**Article 19**  
**PROCEDURES FOR SUBDIVIDING OR COMBINING**

A. Procedure. Subdivision and/or combining of any Unit or Units, are authorized as follows:

i. Owner Proposal. Any owner of any Unit or Units may propose any subdividing or combining of any Unit or Units, and appurtenant Common Elements or Limited Common Elements in writing, together with complete plans and specifications for accomplishing the same and a proposed amendment to this Declaration, the Survey Map and Plans covering such subdividing or combining to the board, which shall then notify all other Unit owners of the requested subdivision or combination.

ii. Owner Approval. Upon written approval of such proposal by one hundred percent (100%) of the owners of the Unit(s) to be combined or subdivided, the owner(s) making the proposal may proceed according to such plans and specifications; provided that the board may in its discretion (but it is not mandatory that the board exercise this authority) require that the board administer the work or that provisions for the protection of other Units or Common Elements or reasonable deadlines for completion of the work be inserted in the contracts for the work. Unless the Board determines after receipt of all required information, the reallocations are unreasonable or that the proposed boundary relocation does not comply with the Declaration or the Act, the Board must approve the application and prepare any amendments to the Declaration and Map in accordance with the requirements of this section. The Association may require payment to the Association of a one-time fee or charge payable by the owners of the Units whose boundaries are being reallocated to include common elements.

iii. Survey Map and Plans. The Association must prepare, execute and record any amendments to the Declaration and the Map prepared in accordance with the requirements of the Act and the amendment must be executed by the Association and the Unit owners of the Units from which the subdivided or combined Unit or Units are derived, assign an identifying number to each resulting Unit, and reallocate the allocated interest formally allocated to the Unit from which a combination was derived to the new Unit, or, if two or more Units are derived from such combination, among the new Units in any reasonable manner prescribed by the owners in the amendment. The amendment is effective upon recording. All costs including reasonable attorney's fees incurred by the Association in preparing and recording amendments must be assessed to the Unit, the boundaries of which are being reallocated.

iv. Allocated Interest. The Allocated Interests formerly allocated to the subdivided Unit shall be reallocated to the new Units in any reasonable and equitable manner prescribed by that owner of the subdivided Unit. The Allocated Interests of the new Unit resulting from a combination of Units shall be the aggregate of the Allocated Interests formerly allocated to the Units being combined.

## Article 20

### SPECIAL DECLARANT'S RIGHTS

A. Special Declarant Rights. As more particularly provided in this Article, Declarant, for itself and any successor Declarant has reserved the following Special Declarant Rights:

- i. Completion of Improvements. Declarant, its agents, employees, contractors and representatives shall have the right to complete, repair, replace or correct improvements and otherwise perform work as set forth, provided for or authorized in: this Declaration; survey map and plans; Articles, Bylaws, or Association Rules; building or other governmental permits or approvals; and Purchase and Sale Agreement between Declarant and a Unit Purchaser, any express or implied warranty under which Declarant is obligated; or otherwise authorized or required by law. This Special Declarant Right shall continue so long as any right, duty or obligation of the Declarant continues under any express or implied warranty, agreement or law.
- ii. Exercise of Declarant Rights. Declarant shall have the right to exercise development Rights, if any, under this Declaration and the Act.
- iii. Termination of Declarants Rights. Except as otherwise provided in this Declaration, the foregoing Special Declarant Rights shall continue so long as Declarant is completing improvements which are within or may be added to this Condominium, or Declarant owns any Units, or any Development Rights remain in effect; provided, that Declarant may voluntarily terminate any or all of such Rights at any time by recording an amendment to the Declaration, which amendment specifies which Right is thereby terminated.
- iv. Liability for Damage. The Declarant is subject to liability for the prompt repair and restoration, to a condition compatible with the remainder of the Condominium, of any portion of the Condominium damaged by the exercise of rights reserved by Declarant pursuant to or created by this Declaration or the Act.
- v. Declarant's Easements. Declarant has an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's Condominium Declaration obligations or exercising Special Declarant Rights or Development Rights, whether arising under the Act or reserved in the Declaration.
- vi. Difference Parcels; Different Times.
  - a. Any development right may be exercised with respect to Different parcels of real property at different times.

- b. No assurances are made as to final boundaries of such parcels or as to the order in which those parcels may be subjected to the exercise of each development right; and
- c. Even though a development right is exercised in any portion of the real property subject to that right, that right need not be exercised in all or in any other portion of the remainder of that real property.
- vii. Exercise of Development Right. To exercise any development right reserved under this Declaration, the Declarant shall prepare, execute and record an amendment to the Declaration as provided for hereunder and comply with RCW 64.90.
- viii. Termination of Development Rights. Except as otherwise provided in this Declaration, the foregoing development rights shall continue so long as the so long as Declarant owns one or more Units in the Condominium. The Declarant may voluntarily terminate any or all of such rights at any time by recording an amendment to the Declaration, which amendment specifies which right is thereby terminated.
- ix. Liability for Damage. The Declarant is subject to liability for the prompt repair and restoration, to a condition compatible with the remainder of the Condominium, of any portion of the Condominium damaged by the exercise of rights reserved by Declarant pursuant to or created by this Declaration or the Act.
- x. Declarant's Easements. Declarant reserves an easement through the common elements as may be necessary for the purpose of discharging Declarant's obligations or exercising special declarant rights or development rights hereunder, whether arising under the Act or reserved in the Declaration.

#### Article 21

#### AMENDMENT OF DECLARATION, SURVEY MAP, PLANS

A. In General. Except in cases of amendments that may be executed by: a Declarant under RCW 64.90.285(10), RCW 64.90.240(2), RCW 64.90.245(12), RCW 64.90.250, or RCW 64.90.415(2)(d); the Association under RCW 64.90.030, RCW 64.90.230(5), RCW 64.90.240(3), RCW 64.90.260(1), or RCW 64.90.265 or RCW 64.90.285(11), or certain Unit owners under RCW 64.90.240(2), RCW 64.90.260(2), RCW 64.90.265(2), or RCW 64.90.290(2) and except as limited by RCW 64.90.285(4)(6)(7)(8)(12), the declaration may be amended only by a vote or agreement of Unit owners of Units to which one hundred (100%) percent of the votes in the association are allocated.

B. Challenge to Validity. In the absence of fraud, any action to challenge the validity of an amendment adopted by the association may not be brought more than one year after the amendment is recorded.

C. Recording. Every amendment to the Declaration must be recorded in every county in which any portion of the condominium is located, and is effective only upon recording. An amendment shall be indexed in the name of the condominium and shall contain a cross-reference by recording number to the Declaration and each previously recorded amendment thereto. All amendments adding Units shall contain a cross-reference by recording number to the Survey Map and Plans relating to the added Units and set forth all information required by the Act. .

D. General Limitations. Except to the extent expressly permitted or required by other provisions of the Act, no amendment may create or increase Special Declarant Rights, increase the number of Units, change the boundaries of any Unit, the Allocated Interests of a Unit or the uses to which any Unit is restricted, in the absence of the vote or agreement of the owner of each Unit particularly affected and the owners of Units to which at least ninety percent of the votes in the association are allocated other than the Declarant.

E. Execution. Amendments to the Declaration required by the Act to be recorded by the association shall be prepared, executed, recorded, and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

F. Special Declarant/Development Rights. No amendment may restrict, eliminate, or otherwise modify any Special Declarant or Development Right, or any other right, power, benefit provided in the Declaration to Declarant (nor otherwise hinder the business activities or expectations of, or benefits provided hereunder to, the Declarant) without the consent of the Declarant and any mortgagee of record (excluding mortgagees of Units owned by persons other than the Declarant) with a security interest in the Special Declarant or Development Right or in any real property subject thereto.

G. Material Amendments. Any amendment to a provision of this Declaration establishing, providing for, governing or regulating the following (all of which shall be deemed "Material Amendments") shall require the consent of one hundred percent (100%) of the Eligible mortgagees, voting rights, Assessments, Assessment liens, or the priority of Assessment liens; reserves for maintenance, repair, and replacement of Common Elements; responsibility for maintenance and repairs; reallocation of interests in the Common or Limited Common Elements, or rights to their use; redefinition of any Unit boundaries; convertibility of Units into Common Elements or vice versa; expansion or contraction of the condominium, or the addition, annexation, or withdrawal of property to or from the condominium; insurance or fidelity bond; leasing of Units; imposition of any restrictions on a Unit owner's right to sell or transfer his or her Unit; a decision by the association to establish self-management when professional management had been required previously by the condominium's documents or by an Eligible mortgage holder; restoration or repair of the condominium (after a hazard damage or partial condemnation) in a manner other than that specified in the Declaration; any action to terminate the legal status

of the condominium after substantial destruction or condemnation occurs; or any provisions that expressly benefit mortgage holders, insurers, or guarantors. A mortgagee who fails to respond within sixty (60) days of a written request to approve an amendment shall be deemed to have approved the request if such request was delivered by certified or registered mail with a return receipt requested.

H. Map and Plans Amendment. Except as otherwise provided herein, the Survey Map and Plans may be amended by revised versions or revised portions thereof referred to and described as to effect in an amendment to this Declaration adopted as provided for herein. Copies of any such proposed amendment to the Survey Map and Plans shall be made available for the examination of every owner. Such amendment to the Survey Map and Plans shall also be effective, once properly adopted, upon recordation in the appropriate county office in conjunction with the Declaration amendment.

I. Lender Requirements. All Unit owners covenant and agree, for themselves and their heirs, successors and assigns, to vote in favor of and implement any amendments hereto which may be necessary to satisfy the requirements of the Federal National Mortgage Association, Veteran's Administration and Federal Housing Administration.

## **Article 22**

### **MISCELLANEOUS**

A. Notice for All Purposes.

i. Delivery of Notice. Any notice permitted or required to be delivered under the provisions of this Declaration or the Bylaws or the Act, must be provided in the form of a record either by mail, private carrier, or personal delivery, telegraph or teletype; or telephone, wire or wireless equipment that transmits a facsimile of the notice. Notice to the association must be addressed to the association's registered agent at his registered office, to the association at its principal office shown in its most recent annual report, or to the president or secretary of the association at the address shown on the association's most recent annual report or provided by notice to the Unit owners. Notice in a tangible medium must be addressed to the Unit address unless the Unit owner or occupant has requested in writing it be sent to an alternate address or by another method. Notice provided in an electronic transmission is effective only upon Unit owners and board members who have consented in the form of a record to receive electronically transmitted notices and have designated in the consent the address, location or system to which such notices may be electronically transmitted, provided that such notice otherwise complies with any of the requirements of the Act.

ii. Mortgagee Notice. Upon written request therefor, and for a period specified in such notice, the mortgagee of any Unit shall be entitled to be sent a copy of any notice respecting the Unit covered by his security instrument until the request is withdrawn or

the security instrument discharged. Such written request may be renewed an unlimited number of times.

iii. Priority This Declaration shall not initially be binding upon any mortgagee of record at the time of recording of said Declaration but rather shall be subject and subordinate to said mortgage.

iv. Acceptance Upon First Conveyance. Unless otherwise expressly approved by the Purchaser of a Unit, Declarant shall not consummate the conveyance of title of such Unit until said mortgagee shall have accepted the provisions of this Declaration and made appropriate arrangements, in accordance with the Act, for partial release of Units with their appurtenant Limited Common Elements and Allocated Interest in Common Elements from the lien of said mortgage. The issuance and recording of the first such partial release by said mortgagee shall constitute its acceptance of the provisions of this Declaration and the condominium status of the Units remaining subject to its mortgage as well as its acknowledgment that such appropriate arrangements for partial release of Units have been made; provided, that, except as to the Units (and their Allocated Interests in Common Elements) so released, said mortgage shall remain in full effect as to the entire property.

B. Severability. The provisions hereof shall be deemed independent and severable, and the validity or partial invalidity or enforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof if the remainder complies with the Act or as covenants effect the common plan.

C. Conveyances Notice Required. The right of a Unit owner to sell, transfer, or otherwise convey the Unit shall not be subject to any right of approval, disapproval, first refusal, or similar restriction by the association or the board, or anyone acting on their behalf. An owner intending to sell a Unit shall deliver a written notice to the board, at least two (2) weeks before closing, specifying: the Unit to be sold; the name and address of the Purchaser, of the closing agent, and of the title insurance company insuring the Purchaser's interest; and the estimated closing date. The board shall have the right to notify the Purchaser, the title insurance company, and the closing agent of the amount of unpaid assessments and charges outstanding against the Unit, whether or not such information is requested. It is understood, however, that a violation of this Section shall not invalidate a sale, transfer or other conveyance of a Unit which is otherwise valid under applicable law.

D. Transfer of Declarant's Powers. It is understood that Declarant, at any time in the exercise of its sole discretion, may sell, assign, transfer, encumber, or otherwise convey to any person, upon such terms and conditions as Declarant may determine, all of Declarant's rights, powers, privileges and authority arising hereunder by virtue of Declarant's capacity as Declarant (which rights, powers, privileges and authority are in addition to those arising from Declarant's ownership of one or more Units and include Development Rights and Special Declarant Rights).

- E. Effective Date. This Declaration shall take effect upon recording.
- F. Reference to Survey Map and Plans. The Survey Map and Plans of the condominium referred to herein were filed with the County Recorder simultaneously with the recording of this Declaration.
- G. US Department of Veteran Affairs Financing. No provision or provisions set forth in this Declaration or the Articles and Bylaws of the Unit Owners Association that is inconsistent with the requirements of the guaranteed or direct loan programs of the United States Department of Veteran Affairs, as set forth in Chapter 37 of Title 38, United States code, or part 36 of Title 38, Code of Federal Regulations ("DVA Financing") shall apply to any Unit that is:
- i. Encumbered by DVA Financing or;
  - ii. Owned by the Department of Veterans Affairs.

### Article 23

#### **SPECIAL DECLARANT RIGHTS** **DEVELOPMENT RIGHTS**

A. Special Declarant Rights. As more particularly provided in this Article, Declarant, for itself and any successor Declarant has reserved the following Special Declarant Rights:

- i. Completion of Improvements. Declarant, its agents, employees, contractors and representatives shall have the right to complete, repair, replace or correct improvements and otherwise perform work as set forth, provided for or authorized in: this Declaration; Survey Map and Plans; Articles, Bylaws, or association Rules; building or other governmental permits or approvals; and Purchase and Sale Agreement between Declarant and a Unit Purchaser, any express or implied warranty under which Declarant is obligated; or otherwise authorized or required by law. This Special Declarant Right shall continue so long as any right, duty or obligation of the Declarant continues under any express or implied warranty, agreement or law.
- ii. Sales Facility of Declarant. Declarant, its agents, employees and contractors shall be permitted to establish and maintain in any Unit still owned by Declarant, such facilities as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the construction, sale or rental of Units and appurtenant interests, including but not limited to: business offices; management offices; sales offices; construction offices; storage areas; signs; model Units; and parking areas for all agents, employees, contractors, prospective tenants or purchasers of Declarant.

- iii. Exercise of Declarant Rights. Declarant shall have the right to exercise Development Rights, if any, under this Declaration and the Act.
- iv. Termination of Declarant's Rights. Except as otherwise provided in this Declaration, the foregoing Special Declarant Rights shall continue so long as Declarant is completing improvements which are within or may be added to this condominium, or Declarant owns any Units, or any Development Rights remain in effect; provided, that Declarant may voluntarily terminate any or all of such Rights at any time by recording an amendment to the Declaration, which amendment specifies which Right is thereby terminated.

#### **Article 24**

#### **CONSTRUCTION OF UNIT STRUCTURES**

A Unit owner, (including Declarant) at its sole cost and expense, shall have the right to construct (in compliance with the provisions of this Declaration and all applicable laws, rules and regulations) and thereafter maintain, repair, alter and replace improvements within the Unit owned by such owner. In connection therewith, a Unit owner is granted the same easements as granted to the Declarant (subject to the same limitations and conditions as imposed on Declarant). In connection therewith, a Unit owner, at its sole cost and expense, shall have the right and obligation to cause such amendments to this Declaration and the Survey Map and Plans to be prepared and recorded as may be required by law or requested by title insurers or mortgagees of the Unit. The Declaration Survey Map and Plans may be amended to show date pertaining to Unit Structures when completed.

#### **Article 25**

#### **DISPUTE RESOLUTION**

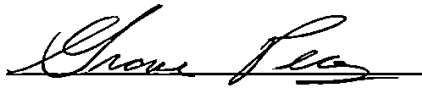
- A. Policy - Mediation. The parties hope there will be no disputes arising out of their relationship. To that end, each commits to cooperate in good faith and to deal fairly in performing its duties under this Declaration in order to accomplish their mutual objectives and avoid disputes. But if a dispute arises, ( with the exception of claims under Article 11 by the Association) the parties agree to resolve all disputes by the following alternate dispute resolution process: (a) the parties will seek a fair and prompt negotiated resolution, but if this is not successful, (b) all disputes shall be resolved by binding arbitration, provided that during this process, (c) at the request of either party made not later than forty-five (45) days after the initial arbitration demand, the parties will attempt to resolve any dispute by non-binding mediation (but without delaying the arbitration hearing date). The parties confirm that by agreeing to this alternate dispute resolution process, they

intend to give up their right to have any dispute decided in court by a judge or jury.

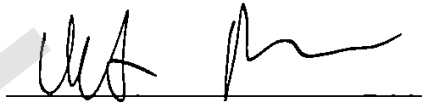
- B. Binding Arbitration. Any claim (with the exception of claims by the association for delinquent assessments or fines which shall be governed by Article 11) between or among any party subject to this Declaration (including without limitation, the Declarant, association board or officers, Unit owners, or their employees or agents) arising out of or relating to this Declaration, a Unit or Units, the condominium or the association shall be determined by Arbitration in the county in which the condominium is located commenced in accordance with RCW 7.04.060; provided, that the total award by a single arbitrator (as opposed to a majority of the arbitrators) shall not exceed \$50,000, including interest, attorneys' fees and costs. If any party demands a total award greater than \$50,000, there shall be three (3) neutral arbitrators. If the parties cannot agree in the identity of the arbitrator(s) within ten (10) days of the arbitration demand, the arbitrator(s) shall be selected by the administrator of the American Arbitration association (AAA) office in Seattle from its Large, Complex Case Panel (or have similar professional credentials). Each arbitrator shall be an attorney with at least fifteen (15) years' experience in commercial or real estate law and shall reside in the county in which the condominium is located. Whether a claim is covered by the Article shall be determined by the arbitrator(s). All statutes of limitations which would otherwise be applicable shall apply to any arbitration proceeding hereunder.
- C. Hearing Law - Appeal Limited. The arbitrator(s) shall take such steps as may be necessary to hold a private hearing within ninety (90) days of the initial demand for arbitration and to conclude the hearing within three (3) days; and the arbitrator(s) written decision shall be made not later than fourteen (14) calendar days after the hearing. The parties have included these time limits in order to expedite the proceeding, but they are not jurisdictional, and the arbitrator(s) may for good cause afford or permit reasonable extensions or delays, which shall not affect the validity of the award. The written decision shall contain a brief statement of the claim(s) determined and the award made on each claim. In making the decision and award, the arbitrator(s) shall apply applicable substantive law. Absent fraud, collusion or willful misconduct by an arbitrator, the award and decision shall be final, and the judgment may be entered in any court having jurisdiction thereof. The arbitrator(s) may award injunctive relief or any other remedy available from a judge, including without limitation joinder of parties or consolidation of this arbitration with any other involving common issues of law or fact or which may promote judicial economy; but shall not have the power to award punitive or exemplary damages; or to award attorney's fees and costs to the prevailing party. The decision and award of the arbitrator(s) need not be unanimous; rather, the decision and award of two arbitrators shall be final.

- D. Warranty Dispute Resolution. In the event Declarant has issued a warranty of quality to the initial purchasers of Units, and such warranty contains provisions governing the making of claims and governing the resolution of disputes, then the provisions of such warranty shall control over the provisions of this Article 25 with respect to all express and implied warranty claims (including without limitation the Washington condominium Act implied warranties) involving Units and Common Elements (regardless of whether the Unit owner, association or board is asserting the claim).

## DECLARANTS:



Grace Perez



Victor Perez

STATE OF SOUTH DAKOTA)

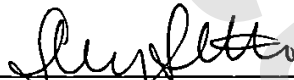
) ss.

COUNTY OF Pennington)

On this day personally appeared before me Grace Perez to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 18<sup>th</sup> day of March, 2024.



  
 NOTARY PUBLIC - State of South Dakota  
 Commission expires: September 11, 2029

STATE OF WASHINGTON )

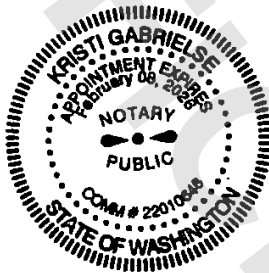
Declaration

Page 45 of 48

COUNTY OF Skaqit ) ss.

On this day personally appeared before me Victor Perez to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 28 day of March, 2024.



[Signature]  
NOTARY PUBLIC - State of Washington

Commission expires: 2/8/2026

**Exhibit "A"**  
**Legal Description**

**Parcel A:**

The North  $\frac{1}{2}$  of Lots 19 and 20, Block 122 "Map of the City of Anacortes, Skagit County, Washington," as per plat recorded in Volume 2 of Plats, page 4, records of Skagit County, Washington.

**Parcel B:**

Lot 18, and the South  $\frac{1}{2}$  of Lots 19 and 20, Block 122 "Map of the City of Anacortes, Skagit County, Washington," as per plat record in Volume 2 of Plats, page 4, records of Skagit County, Washington.

Situate in the City of Anacortes, County of Skagit, State of Washington.

**Exhibit B**  
**Description of Units**

<b>Unit Number</b>	<b>Approximate Square Footage</b>	<b>Allocated Interest</b>
Unit A 1816 L Avenue	2,989 sq ft	50%
Unit B 1820 L Avenue	5,978 sq ft	50%

Declaration

Page 48 of 48